

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Part 90 of the)	
Commission's Rules to Permit)	WT Docket No. 11-69
Terrestrial Trunked Radio (TETRA))	
Technology)	
)	
Request by the TETRA Association for)	
Waiver of Sections)	ET Docket No. 09-234
90.209, 90.210 and 2.1043 of)	
the Commission's Rules)	
)	

**CONSOLIDATED RESPONSE OF THE TETRA ASSOCIATION
TO REQUESTS FOR CLARIFICATION, REQUEST FOR LIMITED
RECONSIDERATION, AND PETITION FOR DECLARATORY RULING**

On April 26, 2011, the Federal Communications Commission ("FCC") granted in part a request for waiver filed by the TETRA Association ("the Association")¹ in the above-captioned proceeding ("NPRM/Order").² Specifically, the FCC granted a waiver of Sections 90.209 and 90.210 of the rules concerning authorized bandwidth and emission limits, as well as a waiver of the Section 2.1043 permissive change rule for certified equipment, permitting certification of TETRA equipment for operation in the 450-470 MHz and 817-824/862-869 MHz bands.³ Four parties ("Requesting Parties") have filed pleadings in response to the NPRM/Order, variously titled Requests for Clarification, Request for Limited Reconsideration, and/or Petition for

¹ *Request by the TETRA Association for Waiver of Sections 90.209, 90.210 and 2.1043 of the Commission's Rules*, Request for Waiver, ET Docket No. 09-234 (filed Nov. 20, 2009) ("Waiver Request").

² *Amendment of Part 90 of the Commission's Rules to Permit Terrestrial Trunked Radio (TETRA) Technology*; *Request by the TETRA Association for Waiver of Sections 90.209, 90.210 and 2.1043 of the Commission's Rules*, Notice of Proposed Rulemaking and Order, WT Docket No. 11-69 and ET Docket No. 09-234, 2011 LEXIS 1575 (rel. April 26, 2011) ("NPRM/Order").

³ *Id.* at ¶ 24.

Declaratory Ruling (collectively, the “Requests”).⁴ The Association hereby responds to these Requests.

The Requests, submitted thirty days after the release of the NRPM/Order⁵ and seeking to modify the scope of the waiver grant, are, in effect, seeking the Commission’s reconsideration of its decision. As such, there is a high bar for granting these Requests, one that is not met here. To the extent the Requests rely on facts not previously presented to the Commission, Section 1.106 requires parties to make a showing as to why the facts could not have been presented during the proceeding,⁶ which has not been done. And, to the extent the Requests rely on old arguments, they fail to provide a basis for the FCC to reverse its position and modify the waiver grant.

DISCUSSION

Though not captioned consistently, the issues raised in the Requests are similar. They can be summarized as follows: 1) whether TETRA equipment should be banned from the 800 MHz public safety Enhanced Specialized Mobile Radio (“ESMR”) frequencies; 2) whether the waiver provides for a general waiver of the frequency coordination requirements for TETRA operations on 450-470 MHz I/B shared spectrum; 3) whether TETRA systems operating below 512 MHz must use a station identification “kludge” that incorporates Morse Code into the digital transmission stream; and 4) whether TETRA devices not already certified at the time that the waiver was issued must be certified only at maximum power. While the Requesting Parties participated in the waiver proceeding and could have raised these issues prior to the issuance of

⁴ *Request for Clarification or, in the Alternative, for Limited Reconsideration Filed by Enterprise Wireless Alliance*, ET Docket No. 09-234, WT Docket No. 11-69 (filed May 26, 2011) (“EWA Request”); *Motorola Solutions, Inc. Request for Clarification*, ET Docket No. 09-234, WT Docket No. 11-69 (filed May 26, 2011) (“MSI Request”); *Request for Clarification of the National Public Safety Telecommunications Council*, ET Docket No. 09-234, WT Docket No. 11-69 (filed May 26, 2011) (“NPSTC Request”); and *Telecommunications Industry Association Petition for Clarification and/or Declaratory Ruling*, ET Docket No. 09-234, WT Docket No. 11-69 (filed May 26, 2011) (“TIA Petition”) (jointly, the “Requests”).

⁵ See 47 C.F.R. § 1.4 (specifying timeframe for filing petitions for reconsideration).

⁶ 47 C.F.R. § 1.106(c).

the waiver,⁷ none did. More importantly, however, the issues raised in the Requests lack merit and should be dismissed.

The theme of these Requests is that the FCC must severely limit TETRA operations in the United States due to the potential for interference to other users. Despite abundant opportunity during the full notice and comment period allotted to the waiver petition, the Requesting Parties have never provided any reasoned, technical arguments supporting their expressed concerns about the interference potential of TETRA devices. The Requests continue to lack any technical showing. In contrast, the FCC has made abundant findings supporting the Association's position that TETRA devices will not cause harm to other users, namely:

- that “TETRA technology provides sufficient interference protection to other technologies;”⁸
- that “TETRA has a lower interference potential to adjacent channel users than currently used analog FM and Project 25 Phase I transmitters,”⁹ and “TETRA has a lower adjacent channel interference potential than other land mobile technologies currently in use;”¹⁰
- that “the emissions profile from TETRA devices is more stringent than the emission mask requirements of Section 90.210 for emissions in the adjacent band;”¹¹
- that an increase in allowed bandwidth “does not appear likely to have a significant impact on adjacent channel interference;”¹²
- that the “more stringent TETRA limits on adjacent channel power (ACP) and out-of-band emissions would serve to prevent any potential increase in adjacent channel interference;”¹³
- that “[t]he TETRA standard meets all Part 90 requirements except for those pertaining to occupied bandwidth and emission masks;”¹⁴ and

⁷ The exception is EWA, which did not participate. Although we address the merits of EWA's filing here, the Association does not believe that EWA has met the requirements of Section 1.106(b)(1) of showing “good reason why it was not possible for [it] to participate in the earlier stages of the proceeding.” See 47 C.F.R. § 1.106(b)(1).

⁸ NPRM/Order at ¶ 9.

⁹ *Id.*

¹⁰ NPRM/Order at ¶ 20.

¹¹ NPRM/Order at ¶ 9.

¹² NPRM/Order at ¶ 10.

¹³ *Id.*

- that it is appropriate to allow TETRA certification pending the outcome of the rulemaking proceeding.¹⁵

While these findings should put to rest any need for the FCC to reconsider the waiver order, we address in turn the particulars of the four issues raised.

TETRA Operations on Public Safety ESMR Frequencies

Motorola Solutions, Inc. (“MSI”), the Telecommunications Industry Association (“TIA”) and the National Public Safety Telecommunications Council (“NPSTC”) seek clarification that TETRA equipment may not be used on 821-824/866-869 MHz and 806-809/851-854 MHz.¹⁶ The basis of these requests is that public safety operations have not been fully moved off these frequencies due to the 800 MHz band reconfiguration process. MSI also claims that allowing TETRA systems to deploy on these channels, in the vicinity of public safety systems, is at odds with the FCC’s “express intention of not permitting the mingling of public safety and TETRA systems.”¹⁷

There is no need to ban TETRA devices from these frequencies. As shown above and in previous filings, there is no cause to believe that TETRA devices would cause more interference than any other technology operating in this band.¹⁸ In fact, devices operating using the TETRA standard pose less of an adjacent channel inference threat than other presently-certified devices.¹⁹ Any co-channel interference concerns would be a matter of frequency coordination, unrelated to the waiver. Finally, the Association notes that only a small number of geographic regions now require rebanding.²⁰ It would be draconian to preclude utilities, for example, which use these frequencies, from using

¹⁴ NPRM/Order at ¶ 20.

¹⁵ NPRM/Order at ¶ 19.

¹⁶ MSI Request at 2, TIA Petition at 2, and NPSTC Request at 3.

¹⁷ MSI Request at 2.

¹⁸ Of course, prior to the waiver several manufacturers received equipment certification for TETRA devices, albeit at a slightly lower power level, allowing them to begin deployment on these frequencies.

¹⁹ The impact of a TETRA device operating near a public safety device would be similar to P25 devices having to share a frequency, though as the FCC has found a TETRA device would perform better in terms of interference potential to adjacent channel users. The Association also notes that other technologies, for example the Harris Opensky technology, which is a four-slot 25 kHz TDMA technology very similar to TETRA, have received FCC certification and are not restricted by the FCC because of near/far, co-channel interference, or other similar concerns.

²⁰ Only about nine out of fifty-five regions remain to be rebanded.

this spectrum for TETRA equipment, and the Requesting Parties have offered no credible reason for doing so.

In terms of MSI's belief that FCC has barred the mingling of TETRA and public safety systems, the Association believes that the Commission merely is being cautious in seeking comment on the rulemaking, and that there is no real near/far issue or any other technical concern that would require the imposition of such a ban.

Waiver of Coordination Requirement in the 450-470 MHz I/B Spectrum

The Enterprise Wireless Alliance ("EWA") seeks "clarification of the FCC's statement that [frequency] coordination should not be required 'for modification applications filed pursuant to this waiver where the only change is to reflect the TETRA emissions,'" and specifically whether the Commission intended this exemption to apply only to channels to which the waiver applies.²¹ EWA's position is that, in the 450-470 MHz I/B bands, absent a situation in which the only change is a reduction in bandwidth, frequency coordination is required for operations on shared channels.²² EWA seeks FCC confirmation that "prior frequency coordination still is required before converting an existing system authorized for shared channels to TETRA technology."²³

There is no reason to believe that the FCC's applicable coordination rules would be suspended because TETRA technology is being used, or as a result of the grant of the waiver request, which did not seek a waiver of the frequency coordination rule. We have addressed above EWA's claim that TETRA must be limited to certain bands because of concerns about interference to public safety.

Station Identification Rule

MSI seeks clarification that Section 90.425 applies to TETRA devices.²⁴ MSI explains that manufacturers of equipment operating below 512 MHz must develop a

²¹ EWA Request at 5.

²² EWA Request at 6-7.

²³ EWA Request at 8.

²⁴ MSI Request at 3.

station identification “kludge” incorporating Morse Code into the digital transmission stream in order to comply with the rule.²⁵

This request appears completely unrelated to the waiver, and rather an attempt by MSI to divert this proceeding in order to press its agenda in a different proceeding.²⁶ TETRA base stations transmit station identifiers as part of their protocol, a fact about which MSI is well aware.

Certification at Maximum Power

MSI also seeks FCC clarification that any TETRA equipment not certified at the time the waiver was granted may only become certified at maximum power, which MSI claims is required by the rules. This “clarification” is in essence a proposal to limit FCC certification for new applicants to standard TETRA technology only, as opposed to a modified (lower-power) standard. MSI cites no authority for its proposition that the rules require this, as no such rule exists. There is no substance behind MSI’s proposition, which must be denied.

²⁵ *Id.*

²⁶ Motorola has proposed in another proceeding revising the station identification rule to allow Private Mobile Radio Services licensees operating on exclusive channels or protected service contours in the UHF/VHF channels the option of transmitting station ID in digital format. *See* Comments of Motorola at 13, WT Docket No. 07-100 (May 14, 2010).

CONCLUSION

There is no need for FCC clarification of any of the issues raised in the Requests, either because the positions are unsupported or because the issues raised are unrelated to the grant of the waiver. The Commission should dismiss these Requests forthwith.

Respectfully submitted,

The TETRA Association

/s/ _____

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June 8, 2011

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Consolidated Response of The Tetra Association to Requests for Clarification, Request for Limited Reconsideration, and Petition for Declaratory Ruling, was sent by United States mail, first class postage prepaid, on this 8th day of June, 2011, to the following:

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